

ORILLIA COVID-19 EMERGENCY MEASURES BY-LAW
OFFICE CONSOLIDATION

BY-LAW NUMBER 2020-28 OF THE CITY OF ORILLIA

A BY-LAW TO ESTABLISH EMERGENCY MEASURES DURING THE COVID-19 PANDEMIC (AS AMENDED BY BY-LAWS 2020-45, 2020-58)

WHEREAS the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus 19 ("COVID-19 pandemic");

AND WHEREAS on March 17, 2020 a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, R. S. O. 1990, c. E.9 (the *Emergency Management Act*) related to COVID- 19;

AND WHEREAS on March 20, 2020 Mayor Steve Clarke for The Corporation of the City of Orillia declared an emergency pursuant to section 4(1) of the *Emergency Management Act*;

AND WHEREAS on March 27, 2020 the Province of Ontario granted power to various personnel including municipal law enforcement officers to enforce Orders issued by the Province under the *Emergency Management Act*;

AND WHEREAS section 4(1) of the *Emergency Management Act* provides that the Head of Council of a municipality may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such Orders as he or she considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area;

AND WHEREAS an Emergency Management Committee (EMC), consisting of the Mayor, Chief Administrative Officer, Fire Chief and the Emergency Information Officer was established on March 20, 2020;

AND WHEREAS Council considers it desirable to enact regulation to support the intent and purpose of the Provincial Orders and the EMC Orders made under the *Emergency Management Act* in order to protect the health and safety of the citizens of the City of Orillia, by prohibiting certain activities and regulating physical distancing and closing certain municipal assets during the COVID-19 Emergency;

AND WHEREAS sections 8, 9, and 10 of the *Municipal Act, 2001* authorize the City of Orillia to pass by-laws necessary and desirable for municipal purposes, and in particular, paragraphs 4, 5, 6, and 8 of subsection 10(2) authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS without limiting sections 9 and 10 of the *Municipal Act, 2001*, a local municipality may prohibit and regulate matters such as dangerous places, public nuisances and business hours and closures as well as regulate and govern real and personal property used for the business and the person carrying it on or engaged in it;

AND WHEREAS section 425 of the *Municipal Act, 2001* provides that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS the Medical Officer of Health for the Simcoe Muskoka District Health Unit has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

TITLE

1. This by-law may be referred to as the "Orillia COVID-19 Emergency Measures By-law". In the text of this by-law, it is referred to as "this By-law."

DEFINITIONS

2. "Acknowledgement and Undertaking Form" means the form provided by the City for completion by legal owners of Establishments pursuant to the terms of the COVID-19 Patio Program. **(B. 2020-58)**

"City" means The Corporation of the City of Orillia.

"COVID-19 Emergency" means the period of time commencing upon the date of passing of this By-law until the declaration of emergency made by the Head of Council and Province under sections 4(1) and 7.0.1 of the *Emergency Management Act* in relation to the COVID-19 pandemic has been terminated.

"COVID-19 Measures" means all legislative amendments, controls, orders, and requests and requirements to persons to change their activities in various ways, enacted or issued by the Governments of Canada, the Province of Ontario, the Simcoe Muskoka District Health Unit and/or the City in response to the COVID-19 pandemic. **(B. 2020-58)**

"COVID-19 Patio" includes a temporary outdoor area, constructed (as new or expansion of existing) for the purposes of accommodating COVID-19 measures, where food, beverages, wine, spirits or any of them are served to the public or to members of a club or organization and is an accessory use to a restaurant or bar. **(B. 2020-58)**

“COVID-19 Patio Program” means the program approved by City Council on June 18, 2020, in response to the Province of Ontario’s Phase 2: A Framework for Reopening our Province. **(B. 2020-58)**

“Emergency Management Act” means the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E. 9.

“Emergency Management Committee” is a committee established as a result of the Head of Council declaring an emergency. This committee consists of the Head of Council (Mayor), Chief Administrative Officer, Fire Chief and the Emergency Information Officer for the City of Orillia.

“Establishment” means a restaurant or bar operating a COVID-19 Patio.

“Garage sale” means any sale to the public of personal property from any zone as defined in the City’s Zoning By-law 2014-44 as amended, including but not limited to all sales entitled “garage”, “lawn”, “yard”, “attic”, “porch”, “driveway”, “room”, “patio”, “backyard” or “rummage’ sale”.

“Head of Council” means the Mayor of the City.

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c. 25.

“Officer” means a Municipal Law Enforcement Officer, Assistants to the Fire Marshal, Ontario Provincial Police Officer, or Public Health Inspector.

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative. **(B. 2020-58)**

“Proprietor” means any Person, governing body or agency which controls, governs or directs activity carried on in a Public Place and includes the person who is actually in charge thereof at any particular time, but excludes the City;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c.P. 33.

“Public Place” includes any place open to public view, and any place to which the public has access as of right or invitation, express or implied, regardless of whether it is owned by a public or private entity, and, for greater certainty, includes but is not limited to the following:

- a) parks, trails and natural areas in the City;
- b) public and private parking lots;
- c) facilities owned by the City, including arenas, community centres, libraries, parks, and pools;
- d) highways, streets, sidewalks, and any portion of a road allowance;
- e) all schools, daycare facilities, and other child care facilities; and,
- f) all retail, commercial and business establishments, including but not limited to shopping malls.

REGULATIONS

3.
 - a) Every Person shall maintain at least a 2.0 metre distance from every other Person when in any Public Place, except Persons who reside together in the same premises.
 - b) No Person shall permit a child under the age of 16 to be less than a 2.0 metre distance from another Person when in any Public Place, except Persons who reside together in the same premises.
 - c) No Proprietor shall permit any Person to be seated or to be standing inside or outside a business operating during the COVID-19 Emergency at a distance of less than 2.0 metres from every other Person, except Persons who reside together in the same premises or the employees of the said business.
4. No person shall:
 - a) Enter or use the Couchiching Beach Park boat launch;
 - b) Enter or use the Collins Drive boat launch;
 - c) Enter or moor a boat at the Port of Orillia; or
 - d) Hold a garage sale.
5. No Person shall operate a COVID-19 Patio on private property without first obtaining approval to do so from the Chief Administrative Officer, or designate. **(B. 2020-58)**
6. No Person shall operate a COVID-19 Patio on City property without first entering into a Lease Agreement with the Chief Administrative Officer, or designate. **(B. 2020-58)**
7. No Person shall operate a COVID-19 Patio in contravention of the provisions of the Acknowledgement and Undertaking Form, including the requirements set out in Schedule “A” attached thereto. **(B. 2020-58)**

EXEMPTIONS

8. This By-law does not apply to Officers, City employees or persons hired or engaged by the City to do work or perform services in a Public Place while performing enforcement services, including but not limited to, the enforcement of this By-law.

ENFORCEMENT AND INSPECTION

9. The provisions of this By-law may be enforced by an Officer.
10. An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law is being complied with.

11. For the purposes of conducting an inspection pursuant to this By-law, an Officer may:
 - a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information from any person concerning a matter related to the inspection; and
 - d) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
12. No Person shall prevent, hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law, including refusing to identify themselves when requested to do so by an Officer.

ORDERS

13. An Officer may order a Person to leave any Public Place as a result of a contravention of this By-law.
14. An Order under this section may be given verbally or in writing.
15. An Order in writing shall identify:
 - a) the location where the contravention occurred;
 - b) the reasonable particulars of the contravention;
 - c) the date and time by which there must be compliance with the order; and
 - d) shall be served personally to the Person to whom it is directed, or served by Registered Mail to the Person which shall be deemed to be delivered on the fifth day after mailing.
16. No Person shall fail to comply with an Order given by an Officer under this By-law.

PENALTIES

17. Every Person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.

18. In addition to section 17, any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:
- a) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;
 - b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000; and
 - c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
19. If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order prohibiting the continuation or repetition of the offence by the Person convicted.
20. Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section.
21. If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under subsection 20, the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001*.

CONFLICTS

22. In the event of conflict between this By-law and:
- a) an order made under subsection 7.0.2 (4) or 7.1 (2) of the *Emergency Management Act*; or
 - b) any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada;

the specific provisions of this By-law that are in conflict with the above shall be of no force and effect to the extent of the conflict.

FORCE AND EFFECT

23. This By-law shall come into force and take effect on the date of passing thereof, and shall remain in force until the termination of the COVID-19 Emergency under Section 4(1) and Section 7.0.1 of the *EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT*.

DELEGATED AUTHORITY

24. The Mayor, in consultation with the Emergency Management Committee, is hereby delegated the authority to waive and reinstate the regulations set out in clauses 3. and 4. contained within this by-law. **(B. 2020-45)**

BY-LAW introduced and passed this 15th day of April, A.D. 2020.

**Original signed by:
STEVE CLARKE, MAYOR
GAYLE JACKSON, CAO/CITY CLERK**

SCHEDULE “A” OWNER’S ACKNOWLEDGEMENT AND UNDERTAKINGS

RE: COVID-19 PHASE 2 PATIO PROGRAM

Please complete all applicable sections.

PROPERTY INFORMATION (Site of COVID-19 Phase 2 Patio)	
Establishment Name:	
Street Address:	
ESTABLISHMENT OWNER INFORMATION	
Establishment Owner’s/Franchisee’s Name:	
Mailing Address:	
City:	Prov./ PC:
Cell:	Email:
PROPERTY OWNER INFORMATION	
Name:	
Mailing Address:	
City:	Prov./PC:
Cell:	Email:
COVID PATIO DETAILS	
Note: If the proposed COVID-19 Phase 2 Patio is located wholly or partly on municipal property, a Lease will be required, including liability insurance.	
Gross Floor Area of COVID -19 Phase 2 Patio:	
Maximum Occupancy for Indoor Restaurant:	
Proposed Occupancy (#of Patrons):	
Location of Proposed COVID-19 Phase 2 Patio:	Attach Site Drawing (Site Plan or Aerial Photography may be used where available)
LIMITATION	
<p>The undersigned understands and acknowledges that the COVID-19 Phase 2 Patio Program permits the extension or construction of a COVID-19 Phase 2 Patio in accordance with provincial regulations and recommendations of the Simcoe Muskoka District Health Unit (SMDHU) is on a time limited basis during the period ending on the earlier of:</p> <ul style="list-style-type: none"> a. The day upon which the Province allows Restaurants to reopen without limitation on capacity; or b. January 1, 2021 at 3:00 a.m. <p>Notwithstanding the foregoing, the undersigned understands and acknowledges that the City may order the removal of the COVID-19 Phase 2 Patio or any portion thereof in accordance with the City’s Emergency Measures By-law (By-law 2020-28).</p>	

UNDERTAKINGS

The undersigned undertakes to:

1. Comply with all relevant and applicable:
 - a. provincial legislation, regulations and Orders, including but not limited to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, the *Building Code Act*, 1992 S.O. 1992, c. 23, as amended, the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, the *Liquor Licence Act*, R.S.O. 1990, c. L.18, as amended, and the *Liquor Control Act*, R.S.O., 1990, c. L.19 and all Regulations and Codes established thereunder, including the *Fire Code* and the *Building Code*;
 - b. the recommendations and Orders of the Provincial Medical Officer of Health and the Simcoe Muskoka District Health Unit;
 - c. the By-Laws and Orders of the City; and
 - d. the Applicant's Checklist attached hereto as Schedule A;
2. Ensure that the COVID-19 Phase 2 Patio is removed and the property restored upon the earlier of:
 - a. The day upon which the Province allows Restaurants to reopen without limitation on capacity;
 - b. January 1, 2021 at 3:00 a.m.; or
 - c. The issuance of an order under City's Emergency Measures By-law (By-law 2020-28).
3. Obtain the written consent of the owner of the privately-owned property permitting the proposed patio, in advance, a copy of which is to be provided to the City prior to the installation of the COVID-19 Phase 2 Patio;
4. Permit access, as required for the purposes of inspection and enforcement, for City, Fire and Health Unit Staff.

The undersigned, being the Owner of the subject Establishment, hereby submits this Acknowledgement pursuant to the terms of the City's COVID-19 Phase 2 Patio Program.

Signature:	Date:
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**SCHEDULE 'A' OWNER'S ACKNOWLEDGEMENT AND UNDERTAKINGS
APPLICANT'S CHECKLIST**

REQUIREMENTS FOR COVID-19 PHASE 2 PATIO

(note that all items listed below are required prior to placing a COVID-19 Phase 2 Patio on a property)

Location (Part 1) – Please select one option

- The proposed COVID-19 Phase 2 Patio is wholly situated within the limits of privately-owned property; OR
- A Lease has been issued by the City for the placement of the proposed COVID-19 Phase 2 Patio on municipally-owned land.

Location (Part 2) All Items Required

- The proposed COVID-19 Phase 2 Patio does not exceed 40% of the Net Floor Area of the Restaurant it serves (the floor area of the publicly accessible portion of the restaurant excluding washrooms), as per section 6.2.11 of the City's Zoning By-law;
- The proposed COVID-19 Phase 2 Patio does not occupy any Required Parking Space for the Restaurant (note that the Required Parking Spaces for the Restaurant will be calculated based on the Net Floor Area of the COVID-19 Phase 2 Patio);
- The proposed COVID-19 Phase 2 Patio is within the walking distance prescribed by AGCO of the Restaurant it serves;
- The proposed COVID-19 Phase 2 Patio shall NOT occupy any space in a parking lot reserved for accessible parking, unless alternative accessible parking is provided.
- The proposed COVID-19 Phase 2 Patio does not occupy any parking aisle or driveway.
- The proposed COVID-19 Phase 2 Patio is not located in a sight triangle;
- Where a business requesting a dining patio abuts another business which could also request a patio, no dining table shall be closer than 1m to the common property line;
- Temporary table dividers may be installed to make physical distancing easier for restaurants with communal seating or larger tables.
- Groups must be seated two metres/six feet from another group;
- Minimum 2" reflective tape (yellow or white) placed on both top and bottom of pickets/posts for the length of the encroachment into parking areas.

Access

- If a raised platform is proposed to comprise any portion of the proposed COVID-19 Phase 2 Patio, a Building Permit has been obtained for same;
- The proposed COVID-19 Phase 2 Patio does not compromise or obstruct barrier-free access to or from the patio entrances/exits, washrooms and/or designated barrier-free spaces.
- The proposed COVID-19 Phase 2 Patio does not compromise fire or emergency access or designated fire routes or block access to any Fire Department connections.
- The proposed COVID-19 Phase 2 Patio does not hinder or obstruct access for City Staff or utility companies who may need access for repair or maintenance of facilities, structures or otherwise, such as fire hydrants and connections, electricity elements, natural gas connections, trees/plants, pipes, cables, wires, poles, waste/recycle bins, etc.
- The proposed COVID-19 Phase 2 Patio will meet the following setbacks:
 - At least 1.5 m from any Fire Hydrant
 - At least 0.6 m from any Gas assets or meters; and
 - At least 1.5 m from any Utility Vault

Furnishings, Shelter and Other

- The proposed COVID-19 Phase 2 Patio will not contain fixed or permanent structures, furnishings, etc;
- The proposed COVID-19 Phase 2 Patio shall only contain temporary shelter, such as umbrellas or shade screens, but shall NOT contain tents, roofs, etc unless a Building Permit has been obtained for same where required;
- All dedicated waste receptacles will be located within the patio footprint;
- The proposed COVID-19 Phase 2 Patio will not contain outdoor cooking facilities or meal preparation areas.

Partitions

- The COVID-19 Phase 2 Patio will be demarcated by way of physical barriers, such as curb stops, etc. to ensure the safety of patrons from adjacent activities and to ensure public safety, and compliance with Liquor Control requirements, if applicable.
- Where fencing is used, same shall:
 - not be less than 0.9m in height;
 - be weighted by footplates or stable mass planter boxes;
 - not extend beyond the area of the COVID-19 Phase 2 Patio, and cannot be attached to trees, City property or utilities, etc.

Occupancy and Capacity

- The number of patrons is limited to a maximum of 40% of the design capacity of the indoor establishment subject to maintaining a minimum distance of two metres between patrons from different households.

For City Use Only - Departmental Approval

Department	Name	Signature - approved	Date
Planning			
Building			
Fire			
Legislative Services			